

REMARKS

Status of the Claims

Claims 1-17, 33, and 34 are now pending. Non-elected claims 18-32 were previously canceled without prejudice or disclaimer. Claims 1 and 33 are independent.

Reconsideration of this application is respectfully requested.

Drawings

Applicants thank the Examiner for indicating that the drawings filed November 23, 2005, have been accepted.

Information Disclosure Citation

Applicants thank the Examiner for considering the reference supplied with the Information Disclosure Statement filed March 16, 2011.

Rejections under 35 U.S.C. § 103

A. Claims 1, 3-7 and 15

Claims 1, 3-7, and 15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Abileah et al. (US 2002/0038336) in view of Gibbons et al. (US 7,275,243), further in view of Tuatini (US 2001/0047385). This rejection is respectfully traversed.

Page 2 of the outstanding Action begins by alleging that “Abileah et al [sic, disclose?] a connector obtaining unit responsive to the application management unit determination of the existing connector so as to provide access to the existing connector determined by the application management unit (see sec [0019], lines 25-30 which disclose utilizing a transaction manager, running on an application server, to invoke connector meta models).” Missing from this statement of the disclosure of sec [0019], lines 25-30 is any hint of what, exactly, is being interpreted in this paragraph [0019] to correspond to either the noted “connector obtaining unit” or the noted “application management unit,” much less how these two unidentified “units” of the claim 1 “service utilization terminal” are being alleged to interact so that the unidentified “connector obtaining unit” can be said to in any way be responsive to the unidentified “application management unit” to “access to the existing connector determined by the

application management unit.” All that is taught at sec [0019], lines 25-30, of Abileah is the following:

application server as a source language to the first language of the first end user application as a target language, each comprise the steps of: invoking connector metamodels of respective source language and target transaction manager; populating the connector metamodels with metamodel data

While the step of “invoking connector metamodels of respective source language and target transaction manager” and then somehow the step of “populating the connector metamodels with metamodel data” is suggested here in abstract terms (“invoking” and “populating” that are steps of wide scope), there is no suggestion of how such steps of “invoking” and “populating” will be done. It is well established that such reference statements cannot be considered in the abstract; rather, they “must be considered in the context of the teaching of the entire reference.” See again *In re Kotzab*, 217 F.3d 1365, 1371, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000) as cited in the last response.

In addition, paragraph [0019] of Abileah is not part of the technical disclosure of Abileah; instead, it is part of the summary of the invention that repeats the sub-steps “1)” and “2)” of the paragraph e) step of method claim 1 Abileah. As noted by *In re Benno*, 768 F.2d 1340, 226 USPQ 683, 686 (Fed. Cir. 1985), “[t]he scope of a patent’s claims determines what infringes the patent; it is no measure of what it discloses.” The fact that the step of “invoking” is broad relates to what the scope of what corresponding claim 1 encompasses, it does not add new disclosure to the existing actual technical disclosure of Abileah. In this regard, there is absolutely no written description of any connector obtaining unit responsive to the application management unit . . . to provide access to the existing connector determined by the application management unit.” In any event, the step of “invoking” does not provide an existing operational connector because whatever is “invoked” as a connector metamodel must then be “populated” with needed “metamodel data” to become an operational connector.

Page 16 of the outstanding Action that presents supposed responses to the arguments presented in the last response is of little help in understanding the theory of the present rejection. In this regard, it refers to paragraph numbers of the instant specification that includes no such numbers. If the intent was to refer to the corresponding Patent Application Publication No.

2007/001541, the wrong paragraph number appears to have been used. For example, lines 1-6 of paragraph [0014] of the corresponding published Patent Application Publication No. 2007/001541 do not suggest that “the term connector is used regarding information specifying a function required for executing an application.”

Moreover, even if paragraph [0014] of the corresponding Patent Application Publication No. 2007/001541 did suggest this usage, this does not change the claim requirement for a “connector obtaining unit responsive to the application management unit . . . to provide access to the existing connector” (emphasis added). Once again, whatever sub-step 1) of step e) of method claim 1 of Abileah might cover in terms of scope, this scope of coverage is not a written description of the subject matter in question as to “a connector obtaining unit responsive to the application management unit . . . to provide access to the existing connector determined by the application management unit” (emphasis added). It is well established that a reference must have clear and unequivocal disclosure because mere speculation as to what the reference might have been suggesting is not enough. See *In re Hughes*, 345 F.2d 184, 188, 145 USPQ 467, 471 (CCPA 1965) and *In re Moreton*, 288 F.2d 708, 711, 129 USPQ 227, 230 (CCPA 1961). Before there is an actual connector that specifies needed information like the claimed “information indicating a function required for executing said application,” the connector metamodels of Abileah must be populated with metamodel data using the connector building tool noted in paragraph [0079] of Abileah to become actual connectors and not just common application metamodels.

To whatever extent that the Examiner might be trying to ignore the requirement that the connector obtaining unit responsive to the application management unit . . . to provide access to the existing connector determined by the application management unit” (emphasis added),” it is well established that each word of every claim must be given weight. Note that *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970) was cited as establishing this point in the last response. As further noted in the last response, it is also well established that “ordinary, simple English words whose meaning is clear and unquestionable,” absent any indication that their use in a particular context changes their meaning, are construed to mean exactly what they say. Note again *Chef America, Inc. v. Lamb-Weston, Inc.*, 358 F.3d 1371, 1372, 69 USPQ2d 1857, 1859 (Fed. Cir. 2004). The word “existing” is well understood to mean being present.

Further in this regard, nothing is clearly and unequivocally disclosed by Abileah as to accessing any existing connectors because the invoked "connector metamodels of respective source language and target transaction manager" of paragraph [0019] are incomplete and must be populated with metamodel data by the paragraph [0079] connector building tool to only then become operational connectors. Abileah cannot be said to reasonably teach or reasonably suggest the claim 1 required "connector obtaining unit responsive to the application management unit . . . so as to provide access to the existing connector determined by the application management unit" (emphasis added).

In addition, nothing is relied upon paragraph [0019], lines 25-30 of Abileah, relied upon col. 16, lines 15-20 of Gibbons, and relied upon sec [0161], lines 16-22, sec [0165], lines 7-11, or relied upon Fig. 45 of Tuatini teach or suggest the claim 1 requirement that the "application managing unit," the "connector obtaining unit," and the "function utilizing unit" are all together parts of a service utilization terminal. The Examiner is called upon to designate what in these references is being alleged to teach this claim 1 requirement that the "application managing unit," the "connector obtaining unit," and the "function utilizing unit" are all together parts of a service utilization terminal. In this regard, the PTO reviewing court has emphasized that conclusory findings that omit analysis as to all claim limitations are improper in *Gechter v. Davidson*, 116 F.3d 1454, 1460, 43 USPQ2d 1030, 1035 (Fed. Cir. 1997). In addition, *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), includes a requirement to properly ascertain the differences between the claimed invention and the prior art. The Examiner commits clear error in failing to address the lack of any reference teaching the claim 1 requirement that the "application managing unit," the "connector obtaining unit," and the "function utilizing unit" are all together parts of a service utilization terminal.

Furthermore the reliance on col. 16, lines 15-20 of Gibbons as teaching the claim 1 "application managing unit that analyzes application data to determine an existing connector that specifies information indicating a function required for executing said application" is not understood. The paragraph at col. 16, extending from lines 14-20, of Gibbons states that:

Porting Layer 380 is the low-level interface between the hardware components of MT device 375 and higher level functionality implemented by the Client phase 303. In adapting the Client 303 to different types of MT devices, the most substantial changes are going to be in the components of the Porting Layer

380.

FIG. 4 is a high level block diagram of a networked

Thus, the outstanding Action has committed yet another clear error because col. 16, lines 15-20 of Gibbons do not teach the claim 1 “application managing unit that analyzes application data to determine an existing connector that specifies information indicating a function required for executing said application” as erroneously alleged.

With further regard to Tuatini, the outstanding Action repeats the previous reliance on sec [0161], lines 16-22, sec [0165], lines 7-11, and Fig. 45. However, the outstanding Action once again notes teachings that are only peripherally related in terms of the alleged teaching at sec [0161], lines 16-22 as to “locating stored access interface information based on service and function name” and as to fig. 45, and sec [0165], lines 7-11, which are alleged to disclose “executing an accessible function of the service.” Nowhere is it explained how the requirement that the claimed “accessing a location of said function **based on access information relating to the location described in information contained by said existing connector**,” is taught by the referenced Tuatini disclosure. Instead the referenced Tuatini disclosure is simply taken out of context and once again improperly twisted into a “general concept” that is itself never explained, all in violation of the previously cited decisions of *In re Warner*, 379 F.2d 1011, 1017, 154 USPQ 173, 178 (CCPA 1967) and *In re Rothermel*, 276 F.2d 393, 396, 125 USPQ 328, 331 (1960), for example.

In any event, and as also noted in the last response, the requirement of claim 1 as to the claimed “function utilizing unit” is clear in terms of this unit “accessing a location of said function based on access information relating to the location described in information contained by said existing connector.” To whatever extent that Tuatini teaches “locating **stored access information based on service and function name** and retrieving a transport connector information for a function as alleged at page 17 of the outstanding Action, this is not “accessing **a location of said function based on access information relating to the location described in information contained by said existing connector**” (emphasis added).

Accordingly, reconsideration and withdrawal of the improper rejection of independent claim 1 under 35 U.S.C. § 103(a) as being unpatentable over Abileah in view of Gibbons and further in view of Tuatini are respectfully requested.

Furthermore, as claims 3-7, and 15 depend directly or indirectly from independent parent claim 1 they are respectfully submitted to be improperly rejected under 35 U.S.C. § 103(a) as unpatentable over unpatentable over Abileah in view of Gibbons and further in view of Tuatini for at least the same reason as noted above as to parent independent claim 1.

Accordingly, reconsideration and withdrawal of this improper rejection of dependent claims 3-7 and 15 under 35 U.S.C. § 103(a) are also respectfully requested.

B. Claims 2, 8, 9-14, 16, and 17

The outstanding Action sets forth rejections of claims 2, 8, 9-14, 16, and 17, all of which depend directly or indirectly from claim 1, as follows:

a rejection of dependent claim 2 under U.S.C. §103(a) as being unpatentable over Abileah in view of Gibbons and Tuatini and further in view of Sharma et al. (U.S. Patent No. 6,976,061, hereinafter "Sharma");

a rejection of dependent claims 8, 13, and 14 under 35 U.S.C. §103(a) as being unpatentable over Abileah in view of Gibbons and Tuatini and further in view of Schiller et al. (U.S. Patent Application Publication No. 2002/0007491, hereinafter "Schiller");

a rejection of dependent claim 9 under 35 U.S.C. §103(a) as being unpatentable over Abileah in view of Gibbons and Tuatini and further in view of Trimberger et al. (U.S. Patent No. 7,269,724, hereinafter "Trimberger");

a rejection of dependent claim 10 under 35 U.S.C. §103(a) as being unpatentable over Abileah in view of Gibbons and Tuatini and further in view of Jarvensivu (U.S. Patent Application Publication No. 2002/0188736);

a rejection of dependent claims 11 and 12 under 35 U.S.C. §103(a) as being unpatentable over Abileah in view of Gibbons and Tuatini and further in view of Jarvensivu and Tanaka (U.S. Patent No. 5,845,069); and

a rejection of dependent claims 16 and 17 under 35 U.S.C. §103(a) as being unpatentable over Abileah in view of Gibbons and Tuatini and further in view of Thompson (U.S. Patent No. 5,465,401).

These rejections are first of all traversed because none of the added references (Sharma, Schiller, Trimberger, Jarvensivu, Tanaka, and Thompson) cure the above noted deficiencies of

Abileah in view of Gibbons and Tuatini. Thus, dependent claims 2, 8, 9-14, 16, and 17 clearly patentably define over these applied references for at least the same reasons that claim 1 does.

Furthermore, and as noted and unanswered relative to the last response, none of at least Schiller (video-on-demand), Trimberger (using a physical interface connector with pins), Tanaka (drawn to IC card management) and Thompson (multiple purpose personal communication devices) are analogous art that can be used in an obviousness rejection in combination with Abileah under the provisions of MPEP § 2141.01(a).

In addition, it is again clear that the outstanding Action has improperly relied on these references (Sharma, Schiller, Trimberger, Jarvensivu, Tanaka, and Thompson) in much the same manner as Tuatini in terms of improperly extracting partial unrelated teachings from each of these references out of the reference context and then improperly expanding these extracted partial teachings into far broader abstractions referred to as a “general concept illustrated by” one or the other of Sharma, Schiller, Trimberger, Jarvensivu, Tanaka, and Thompson. Once again, this is noted to clearly violate the above-noted precedent including *In re Kotzab, supra*.

In addition to this violation, the outstanding Action also again violates the requirement of MPEP §706.02(j) that the examiner is to identify “the proposed modification of the applied reference(s) necessary to arrive at the claimed subject matter” in order to support these rejections under 35 U.S.C. 103(a). The previously noted requirement of *KSR Int’l v. Teleflex Inc.*, for “articulated reasoning” having “some rational underpinning to support the legal conclusion of obviousness” has again also been improperly ignored.

Accordingly, reconsideration and withdrawal of these improper rejections of dependent claims 2, 8, 9-14, 16, and 17 under 35 U.S.C. § 103(a) are also respectfully requested.

C. Claim 33

The outstanding Action sets forth a rejection of claim 33 under 35 U.S.C. §103(a) as being unpatentable over Abileah in view of Gibbons and Tuatini. This rejection is respectfully traversed.

It is again first noted that the reliance on the teachings of Abileah and Gibbons is in error for all the reasons noted above as to independent claim 1.

In addition, the outstanding Action adds reliance on paragraphs [0117] and [0130] of Tuatini that cure none of the above-noted deficiencies as to the reliance on Abileah in view of

Gibbons and Tuatini. In this regard, the external shared services of paragraph [0117] of Tuatini are not taught by Tuatini to be reasonably equated to the claim 33 requirement for an "external function management unit responsive to the location of the required function being determined by the connector management unit to be an external location to the service utilization terminal to provide the required function from the external location so that the required function from the external location can be utilized." Similarly, the paragraph [0115] "internal pass thru component" of Tuatini is not seen to be reasonably equated to the claim 33 requirement for "an internal function management unit responsive to the location of the required function being determined by the connector management unit to be an internal location in the service utilization terminal to provide the required function from the internal location so that the required function provided from the internal location can be utilized." See again the previously noted decision of *In re Kotzab* (at 217 F.3d 1371, and at 55 USPQ2d 1317) as to the requirement for relevant evidence as a reasonable mind might accept as adequate to support the conclusion that seemingly different language used in the claims and in the references means the same thing. There is no such relevant evidence here, just a subjective conclusion.

The outstanding Action also once again violates the above and previously noted precedent by suggesting a "piecemeal reconstruction" of unrelated reference disclosures that are extracted entirely out of context and then transformed into broad statements of alleged "concepts" based on applicants' disclosure and not any reasonable reference teachings. The improper revisions of the actual teachings of the references into much broader "concepts" completely outside the limits set by the contexts of the references could not be any clearer.

As noted above, MPEP §706.02(j) requires that the examiner is to identify "the proposed modification of the applied reference(s) necessary to arrive at the claimed subject matter" in order to support any rejection under 35 U.S.C. 103(a). This requirement has once again been ignored as has the previously noted *KSR Int'l v. Teleflex Inc.* requirement for "articulated reasoning" having "some rational underpinning to support the legal conclusion of obviousness."

Accordingly, reconsideration and withdrawal of this improper rejection of independent claim 33 under 35 U.S.C. § 103(a) are also respectfully requested.

D. Claim 34

The outstanding Action sets forth a rejection of claim 34 under 35 U.S.C. §103(a) as being unpatentable over Abileah in view of Gibbons and Tuatini and further in view of Mitchell et al. (U.S. Patent Application Publication No. 2004/0193731, hereinafter "Mitchell").

This rejection is first of all traversed because the added Mitchell reference cures none of the above noted deficiencies of Abileah in view of Gibbons and Tuatini. Thus, dependent claim 34 clearly patentably defines over these applied references for at least the same reasons that parent independent claim 33 does.

The outstanding Action further errs by trying to interpret claim 34 as reciting a "connector obtaining unit [that] obtains the connector from a holding location in said different device by accessing said holding location in said different devices." However, claim 34 does not recite such a "connector obtaining unit." Instead, a "connector management unit" is recited by claim 34 as providing "access to the required existing connector from a holding location in a different device by accessing said holding location in said different device." To whatever extent that paragraph [0021] of Mitchell teaches a "connector interfaces within a multiple client platform or hosting system" (emphasis added), this is not the asserted teaching of "connector interfaces on multiple client devices or a hosting system" (emphasis added). Also, there is no teaching here of the required "access to the required existing connector from a holding location in a different device by accessing said holding location in said different device." The outstanding Action then turns to paragraph [0019] at lines 11-15 and alleges that this somehow teaches the claim 34 "service utilization terminal" that must have "a connector storing unit storing said required existing connector obtained from the holding location in said different device" because it discloses that there are "connector caches for client access."

However, the above noted recitals of claim 34 require far more than "connector interfaces within a multiple client platform or hosting system" or a "PIM service" that Mitchell notes as "typically" acting to somehow "cache a portion of the PIM data within a local PIM data store," none of which is disclosed in any detail as to cache location or manner of access. Once again, a few unrelated reference disclosures are extracted out of even their limited context and then transformed into disclosures of a "general concept" allegedly relevant to the vastly different limitations of claim 34, all without even a hint of any reasonable basis for the transformations in

terms of a specified reference teaching. This is yet another clear violation of the previously noted and above-noted precedent.

As further noted above, MPEP §706.02(j) requires that the examiner is to identify “the proposed modification of the applied reference(s) necessary to arrive at the claimed subject matter” in order to support any rejection under 35 U.S.C. 103(a). This requirement has again been ignored as has the above-noted *KSR Int'l v. Teleflex Inc.* requirement for “articulated reasoning” having “some rational underpinning to support the legal conclusion of obviousness.”

Accordingly, the withdrawal of this improper rejection of dependent claim 34 under 35 U.S.C. § 103(a) is also respectfully requested.

Possible New Ground of Rejection

If the Examiner should attempt to correct the above noted glaring error in the cited reliance on col. 16, lines 15-20 of Gibbons to other teachings of Gibbons without Applicants having been given a reasonable opportunity to comment on such other teachings, such a shift in reliance is well established to be improper See *In re Arkley*, 455 F.2d 586, 589, 172 USPQ 524, 527 (CCPA 1972). Accordingly, attempting such a shift will require that it be presented in a non-final Action to provide Applicants the full range of possible responses.

Conclusion

As all of the stated grounds of rejection have been properly traversed, it is respectfully requested that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Raymond F. Cardillo, Jr., Registration No. 40,440, at the telephone number of the undersigned below to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Director is hereby authorized in this, concurrent, and future replies to charge any fees required during the pendency of the above-identified application or credit any overpayment to Deposit Account No. 02-2448.

Dated: July 19, 2011

Respectfully submitted,

By 

Charles Gorenstein

Registration No.: 29271

BIRCH, STEWART, KOLASCH & BIRCH, LLP

8110 Gatehouse Road, Suite 100 East

P.O. Box 747

Falls Church, VA 22040-0747

703-205-8000